

EP/EO:T

JUL 2 1986

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section.

The information submitted discloses that you were incorporated under the nonprofit laws of the [REDACTED] on [REDACTED]. Your stated purpose is "to preach the Gospel, advance religion by religious training and teaching."

You are an independent association not subordinate to any denomination. The object of the organization "is that, through this evangelistic ministry, under the leadership of the Holy Spirit, people will encounter Christ and come to a saving knowledge of Jesus, and experience personal and spiritual growth through the word." Your activities are designed to support public worship through bible studies, conferences and evangelistic services. These are to be made available to everyone of all faiths. You intent to be involved in hospital and nursing home visitations.

Currently, you hold two bible studies per week on Sundays. These are held in the form of prayer, singing and bible study. Your pastor is also available for other meetings upon request. Your services are publicized by word of mouth and there are future plans for newspaper and newsletter advertisements.

Your pastor has had over 35 years of experience as an ordained minister with the [REDACTED].

You have no currently enrolled active members, however, your services are attended by an average of thirty five individuals.

Other Evangelists will be utilized in the future as your evangelistic outreach grows. As the number of services grow, additional locations are to be added.

Your income is derived from free will offerings. Your expenses consist of occupancy, office supplies, postage and operating supply expenses. Approximately 90% of your total receipts is contributed to your minister in the form of love offering.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	EC		EP/EO:T				
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	4-26-96	4-20-96	7-2-96				

Section 1.501(c)(3) of the Internal Revenue Code provides for exemption from Federal income tax for organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organization or operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(6)(4) of the Income Tax Regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose if, upon dissolution, such assets would, by reason of a provision in the organization's organizing document or by operations of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations states that an organization is not organized or operated for any purpose under section 501(c)(3), unless it serves a public rather than a private interest. Thus to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or person's controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes, if more than an insubstantial part of its activities serve private interests.

In Bubbling Well Church of Universal Love v. Commissioner, U.S. Court of Appeals 9th Circuit No. 80-7358 11-27-81 affirmed 74 TC 531, the tax court reviews an organization that states it is a church operating exclusively for religious purposes. The church was established by three members of one family, who also serve as the sole members of the Board of Trustees and/or directors. The organization had no affiliation with any denomination or ecclesiastical body and was not subject to any outside influence in the course of the organization's affairs.

The organization receives income of approximately \$61,000 during a one year period. Of this amount approximately \$37,000 was directly returned to the family in the form of living allowance, parsonage allowance, medical expenses, medical insurance and travel expenses. This amounted to 61 percent of the organization's income that directly benefited the founding family.

The court stated that under the circumstances described, the family was in a position to perpetuate control of the organization's operations indefinitely, prepare its budget and had complete control of the organization's finances and made decisions on how the funds were spent. Since the organization had no connection with any denomination or outside body, it was not subject to any outside influence in the conduct of the churches affairs.

Concerning the amount of compensation paid to family member, the court stated that the applicant organization has the burden of proving that the compensation paid its officers is reasonable and comparable to salaries paid for similar positions within a particular industry. In denying exemption to this organization the court stated that the organization had not shown that no part of the net earnings did not inure to the family members and that the organization was operate for the private benefit of the family rather than public purposes.

In Basic Bible Church v. Commissioner, 74 T.C. 846 (1980) an organization was formed to operate as a church. The founders and incorporators had total control over the management of the organization's affairs and determined how the organization's money was spent. Services for the organization were held in the personal residence of the founder who held title to all property, both real and personal, in his own name. The organization also showed liability for an automobile loan and expenses for utilities and other items that were directly related to the personal residence where the services were held.

The court ruled that although the organization was serving religious and charitable purposes, it also served to benefit the founders of the organization since few disbursements were shown to be used exclusively for exempt purposes. It was also noted that when an organization's affairs are controlled by a small group and they are recipients of funds distributed by the organization, prohibited inurement is strongly suggested. The court concluded that this organization was not entitled to exemption since it was not operated exclusively for an exempt purpose and served the private interests of its founders rather than public purposes.

The inurement proscription contained in Income Tax Regulations 1.501(c)(3)-1(c)(1) states that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Inurement is likely to arise where the financial benefit represents a transfer of the organizations' financial resources to an individual solely by virtue of the individuals relationship with the organization, and without regard to the accomplishment of exempt purposes.

Inurement of income is strictly forbidden under section 501(c)(3) without regard to the amount involved. This proscription applies to persons who because of their particular relationship with an organization have an opportunity to control or influence its activities. Such persons are considered "insiders" for purposes of determining whether there is inurement of income. Generally, an organization's officers, directors, founders and their families are considered "insiders."

Regulations 1.501(c)(3)-1(c)(1) indicates that an organization will not be exempt under section 501(c)(3) if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, an organization whose operations result in private benefit that is more than insubstantial, will not be considered as serving an exempt purpose. This private benefit prohibition applies to all kinds of persons and groups, not just to "insiders" subject to the more strict inurement proscription.

Our review of your application indicates that your Article of Incorporation do not meet the organizational test required to be recognized as tax exempt under section 501(c)(3) since this document does not state one or more exempt purposes, it does not limit you exclusively to one or more purposes described in this section. In addition, you also have not made any provision for the distribution of your assets to qualified section 501(c)(3) organizations in the event your organization dissolves.

Based on the evidence submitted, we have determined that you have not met your burden of proof to show that you are operated exclusively for an exempt purpose and that you serve the private interests of your creator. In addition, like the organization described in Bubbling Well Church, nothing is shown in the statement of income and expenses for the care of the needy, sick, homeless or imprisoned which are the traditional beneficiaries of the ministrations of churches. You have not established that the organization qualifies for exemption.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

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If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

District Director

Enclosure: Publication 892
cc: State Attorney General ()